

AMENDED IN ASSEMBLY MARCH 21, 2006

AMENDED IN ASSEMBLY JUNE 21, 2005

AMENDED IN SENATE MAY 9, 2005

AMENDED IN SENATE APRIL 21, 2005

AMENDED IN SENATE APRIL 18, 2005

AMENDED IN SENATE APRIL 4, 2005

## SENATE BILL

No. 926

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Introduced by ~~Senators Florez and Perata~~ *Senator Florez*  
(~~Principal coauthors: Senators Escutia and Migden~~)  
(Principal coauthors: Assembly Members McCarthy and Parra)

February 22, 2005

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~~An act to add Section 40065 to the Public Resources Code, and to amend and renumber Section 13274 of the Water Code, relating to sewage sludge. An act to add Section 21080.6 to the Public Resources Code, relating to the environment.~~

### LEGISLATIVE COUNSEL'S DIGEST

SB 926, as amended, Florez. ~~Sewage sludge management~~ *Solid waste facility: local initiative: environmental impact report.*

~~Existing law, the~~

(1) *The California Integrated Waste Management Act of 1989, imposes requirements with respect to solid waste management and solid waste disposal facilities. That act defines solid waste to include dewatered, treated, and chemically fixed sewage sludge that is not a hazardous waste. Existing law, the Porter-Cologne Water Quality Control Act, requires the State Water Resources Control Board or the*

~~California regional water quality control boards to prescribe general waste discharge requirements for agronomic applications of that sludge and the use of that sludge as a soil amendment or fertilizer. Existing law also regulates agricultural products derived from municipal sewage sludge as a fertilizer.~~

~~This bill would specify that those provisions of the Porter-Cologne Water Quality Control Act do not prohibit the Kern County Board of Supervisors, upon a majority vote, from adopting an ordinance that would regulate or prohibit the land application of sewage sludge in the unincorporated areas of Kern County. The bill would require such a prohibition, if enacted, to exempt a land application permitted by a state or local entity before the effective date of the prohibition. The exemption would not apply to any renewal of a preexisting permit that directly regulates the land application of biosolids when the renewal occurs after the effective date of the prohibition. The bill would make legislative findings and declarations regarding the inapplicability of a general statute within the meaning of Section 16 of Article IV of the California Constitution. That act prohibits a person from operating a solid waste facility, as defined, without a solid waste facilities permit, if that facility is required to have a permit.~~

*The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report on a project, as defined, that it proposes to carry out or approve that may have a significant effect on the environment, as defined, or to adopt a negative declaration if it finds that the project will not have that effect. Existing law, by regulation, provides that “project” does not include the submittal of proposals to a vote of the people of the state or of a particular community that does not involve a public agency sponsored initiative.*

*This bill would require, before a local initiative that proposes to amend a city or county’s general plan or zoning ordinance to allow the siting of a solid waste facility may be placed on the ballot, an environmental impact report on the project to be prepared and certified pursuant to CEQA. The bill would specify that the county in which the facility is proposed to be sited is the lead agency. The bill would specify that the project is the siting of the solid waste facility, as proposed by the local initiative. The bill would require the county to make the environmental impact report publicly available, as specified.*

*By imposing new duties on the county, the bill would impose a state-mandated local program.*

*(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 21080.6 is added to the Public*  
2     *Resources Code, to read:*

3     *21080.6. (a) Notwithstanding any other provision of law,*  
4     *before a local initiative that proposes to amend a city or county's*  
5     *general plan or zoning ordinance to allow the siting of a solid*  
6     *waste facility may be placed on the ballot, an environmental*  
7     *impact report on the project, that informs the voters of the*  
8     *project's scope and impact on the environment, shall be*  
9     *prepared and certified pursuant to this division.*

10    *(b) For the purposes of this section:*

11    *(1) The lead agency is the county in which the solid waste*  
12    *facility is proposed to be sited.*

13    *(2) The "project" is the siting of the solid waste facility, as*  
14    *proposed by the local initiative.*

15    *(c) The county shall make the environmental impact report*  
16    *publicly available at the county's headquarters and on the*  
17    *Internet.*

18    *SEC. 2. No reimbursement is required by this act pursuant to*  
19    *Section 6 of Article XIII B of the California Constitution because*  
20    *a local agency or school district has the authority to levy service*  
21    *charges, fees, or assessments sufficient to pay for the program or*  
22    *level of service mandated by this act, within the meaning of*  
23    *Section 17556 of the Government Code.*

24    ~~*SECTION 1. The Legislature hereby finds and declares all of*~~  
25    ~~*the following:*~~

26    ~~*(a) All sewage treatment produces biosolids, which are also*~~  
27    ~~*known as treated sewage sludge. Many municipalities reuse*~~

1 biosolids on agricultural lands, rather than dispose of biosolids in  
2 landfills or through other disposal methods. Biosolids, in most  
3 cases, contain trace concentrations of heavy metals, pathogens,  
4 synthetic organic compounds, and other pollutants.

5 (b) Because of local concerns and perceptions about the  
6 potential risks associated with biosolids land application,  
7 ongoing research about biosolids by federal and state agencies is  
8 necessary to inform the public regarding the safety of biosolids  
9 land application and to ensure the protection of groundwater  
10 resources and public health. Kern County may have special  
11 concerns about the risks to the environment and public health,  
12 and may desire to adopt regulations for biosolids land application  
13 that go beyond state and federal standards. State law does not  
14 preclude a local government agency from regulating the  
15 application of sewage sludge to land within its jurisdiction.

16 SEC. 2. Section 40065 is added to the Public Resources  
17 Code, to read:

18 40065. (a) Nothing in Section 13274 of the Water Code shall  
19 prohibit the Kern County Board of Supervisors, upon a majority  
20 vote, from regulating or prohibiting, by ordinance, in a  
21 nondiscriminatory manner, the

22 land application of sewage sludge, including sewage sludge  
23 imported from another California county, in the unincorporated  
24 areas of Kern County.

25 (b) A prohibition, if enacted pursuant to subdivision (a), shall  
26 provide an exemption for a land application permitted by a state  
27 or local entity before the effective date of the prohibition. This  
28 exemption shall not apply to a renewal of a preexisting permit  
29 that directly regulates the land application of biosolids when the  
30 renewal occurs after the effective date of the prohibition.

31 (c) This section does not supersede a more stringent state or  
32 federal law regarding the management of sewage sludge.

33 (d) This section shall not be construed as affecting the holding  
34 in County Sanitation Dist. No. 2 of Los Angeles County v.  
35 County of Kern (2005) 127 Cal. App.4th 1544.

36 (e) For the purposes of this section, a nondiscriminatory  
37 ordinance shall apply equally to biosolids generated within Kern  
38 County and those imported from other California counties.

1     ~~SEC. 3. Section 13274 of the Water Code, as added by~~  
2     ~~Section 13 of Chapter 814 of the Statutes of 1997, is amended~~  
3     ~~and renumbered to read:~~

4     ~~13275. (a) Notwithstanding any other provision of law, any~~  
5     ~~public water system regulated by the State Department of Health~~  
6     ~~Services shall have the same legal rights and remedies against a~~  
7     ~~responsible party, when the water supply used by that public~~  
8     ~~water system is contaminated, as those of a private land owner~~  
9     ~~whose groundwater has been contaminated.~~

10    ~~(b) For purposes of this section, “responsible party” has the~~  
11    ~~same meaning as defined in Section 25323.5 of the Health and~~  
12    ~~Safety Code.~~

13    ~~SEC. 4. The Legislature finds and declares that this act,~~  
14    ~~which is applicable only to Kern County, is necessary because of~~  
15    ~~the unique and special problems associated with the “land~~  
16    ~~application” of sewage sludge in that county. It is, therefore,~~  
17    ~~hereby declared that a general law within the meaning of Section~~  
18    ~~16 of Article IV of the California Constitution cannot be made~~  
19    ~~applicable to that county and the enactment of this special law is~~  
20    ~~necessary for the control of sewage sludge for the public good.~~